

Application No. 10/694,679
Docket No. 2003-0168.01
(58521.US/4665.0)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Richard Louis Goin et al.
Application No.: 10/694,679
Filing Date: October 28, 2003
Confirmation No.: 3920
Title: IMPROVED MICRO-FLUID EJECTION DEVICES
AND METHOD THEREFOR
Examiner: Juanita Dionne Stephens
Group Art Unit: 2853
Mail Stop: PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION UNDER 37 C.F.R. § 1.181 TO
WITHDRAW HOLDING OF ABANDONMENT
IN THE ALTERNATIVE, REVIVAL OF APPLICATION UNDER C.F.R. § 1.137**

In response to the Notice of Abandonment mailed September 28, 2006, Applicants submit the following Petition, remarks and evidence beginning on page 2 hereof.

Applicants received a Notice of Abandonment in the above referenced case, mailed on September 28, 2006, and hereby Petition that the holding of abandonment be withdrawn either under 37 C.F.R. §1.181 or under 37 C.F.R. §1.137.

FACTS AND EVIDENCE

1. Applicants responded to the Office Action mailed August 23, 2005, on September 15, 2005, by facsimile transmission.

2. On or about July 10, 2006, applicants received a call from Examiner Stephens inquiring about whether or not applicants responded to an office action that was mailed December 15, 2005, in response to the Amendment filed September 15, 2005.

3. After a careful search of applicants' records, no record of receipt of the office action dated December 15, 2005, was found and there were no docket entries for this file, as evidenced by the attached copy of the file jacket of the above referenced application (Exhibit A) and a copy of applicants' docket for all entries for the above application in the date range of from October 28, 2003 through February 23, 2006 (Exhibit B).

4. The first indication to applicants that the office action was not received by applicants was when the examiner called applicants' attorney to inquire if applicants intended to respond to the office action.

REMARKS

In view of the fact that applicants did not receive the office action of December 15, 2005, as evidenced by applicants' records, it is believed that the Notice of Abandonment is in error and should be withdrawn. A complete response to the office action dated December 15, 2005, is attached to this petition.

Application No. 10/694,679
Docket No. 2003-0168.01
(58521.US/4665.0)

In the alternative, applicants hereby request that the application be revived under 37 C.F.R. §1.137. Applicants have expeditiously prepared this request upon receiving the Notice of Abandonment. As the applicant had no knowledge of the office action dated December 15, 2005, the delay in reply was unavoidable. Accordingly, the applicants hereby petition the Director to revive the present application under 37 C.F.R. §1.137(a). If the Director is not satisfied that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(a) was unavoidable, in the alternative, the applicants hereby request that the application be revived under 37 C.F.R. § 1.137(b). The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Please charge any required fees, including, if required, any petition fee as set forth in § 1.17(l) or (m), to Deposit Account No. 12-1213.

Respectfully submitted.

LEXMARK INTERNATIONAL, INC.

By:



Scott N. Barker

Registration No. 42.292

Date: 10/10/06
740 West New Circle Road
Lexington, Kentucky 40550
856-232-3668

enclosures

UNITED STATES PATENT APPLICATION[illegible]

EXHIBIT B

Country Application

Friday, October 06, 2006

Page: 1

Case Number: 2003016800	Country: US	SubCase: 01
Division: Consumer Printer Division	United States of America	
Case Type: PRI	Application Status: Published	
Application Number: 10694679	Filing Date: 28-Oct-2003	
Publication Number: 050088486	Publication Date: 28-Apr-2005	
Patent Number:	Issue Date:	
Parent/PCT Number:	Parent/PCT Date :	
Parent Issue Number:	Parent Issue Date :	
Tax Schedule: LE	Expiration Date:	
Confirmation #: 3920	Patent Term Adjustment: 0	
Agent: LNG	Agent Reference #: 58521.US/4665.0	
Luedeka Neely & Graham, P.C.		

Family Reference:

Remarks: 10/28/03 0 APPLICATION FILED BY O/C
02/11/04 - Rec'd Postcard for IDS
02/02/04 - Filing Receipt Rec'd
05/27/04 - Rec'd Notice of Recordation - 014644/0165
05/05/05 - Rec'd Notice of Publication
06/23/05 - Rec'd copy of Response from LNG filed 6/13/05.
08/29/05 - Rec'd 3 mo OA mailed 8/23/05
09/27/05 - Rec'd copy of Amendment filed 9/15/05 by LaRose

EXHIBIT B

Country Application

Friday, October 06, 2006

Page: 2

List Of Actions

Action(s) Due	Due Date		Action Taken
Information Disclosure Stmt	28-Jan-2004	Due Date	04-Feb-2004
Foreign Filing Reminder	28-Apr-2004	Reminder	
Foreign Filing Due	28-Oct-2004	Final	
RESPONSE DUE	01-Jul-2005	Due Date	13-Jun-2005
1-MON EXTENSION	01-Aug-2005	Due Date	13-Jun-2005
2-MON EXTENSION	01-Sep-2005	Due Date	13-Jun-2005
3-MON EXTENSION	01-Oct-2005	Final	13-Jun-2005
1 Month to Due Date	23-Oct-2005	Reminder	15-Sep-2005
3 Month Due Date	23-Nov-2005	Due Date	15-Sep-2005
1st Extension	23-Dec-2005	Reminder	15-Sep-2005
2nd Extension	23-Jan-2006	Reminder	15-Sep-2005
2 Weeks to Final Date	07-Feb-2006	Due Date	15-Sep-2005
6 Month Final	23-Feb-2006	Final	15-Sep-2005

User ID: dbarcley

Date Created: 26-Nov-2003

Last Update: 29-Sep-2005